

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CLIFTON THOMAS,

Plaintiff,

-against-

THE CITY OF NEW YORK, and POLICE OFFICERS
JOHN DOE 1-6,

Defendants.

ANSWER

07 CV 11425 (RWS)(THK)

Jury Trial Demanded

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Defendant City of New York ("City"), b y its attorney, Michael A. Cardozo, Corporation Counsel of the City of New York, for its answer to the complaint, alleges upon information and belief as follows:

1. Denies the allegations set forth in paragraph "1" of the complaint, except admits that plaintiff purports to proceed as stated therein.
2. Denies the allegations set forth in paragraph "2" of the complaint, except admits that plaintiff purports to invoke the jurisdiction of the Court as stated therein.
3. Denies the allegations set forth in paragraph "3" of the complaint, except admits that plaintiff purports to invoke the jurisdiction of the Court as stated therein.
4. Denies the allegations set forth in paragraph "4" of the complaint, except admits that plaintiff purports to base venue as stated therein.
5. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "5" of the complaint.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “6” of the complaint.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “7” of the complaint.

8. Denies the allegations set forth in paragraph “8” of the complaint, except admits that defendant City is a municipal entity that maintains a Police Department and respectfully refers the Court to the New York State Charter.

9. Denies the allegations set forth in paragraph “9” of the complaint, except admits that plaintiff purports to proceed as stated therein.

10. Denies the allegations set forth in paragraph “10” of the complaint, except admit that a document purporting to be a Notice of Claim was received by the New York City Office of the Comptroller.

11. Denies the allegations set forth in paragraph “11” of the complaint, except admit that no payment or adjustment has been made by the City.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “12” of the complaint, except admit that plaintiff filed a complaint on or about December 20, 2007.

13. Denies the allegations set forth in paragraph “13” of the complaint.

14. Denies the allegations set forth in paragraph “14” of the complaint.

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "15" of the complaint.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "16" of the complaint.

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "17" of the complaint.

18. Denies the allegations set forth in paragraph "18" of the complaint.

19. Denies the allegations set forth in paragraph "19" of the complaint.

20. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "20" of the complaint.

21. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "21" of the complaint.

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "22" of the complaint.

23. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "23" of the complaint.

24. In response to the allegations set forth in paragraph "24" of the complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs, inclusive of this answer, as is fully set forth herein.

25. Denies the allegations set forth in paragraph "25" of the complaint.

26. Denies the allegations set forth in paragraph "26" of the complaint.

27. Denies the allegations set forth in paragraph "27" of the complaint.

28. Denies the allegations set forth in paragraph "28" of the complaint.

29. Denies the allegations set forth in paragraph "29" of the complaint.

30. In response to the allegations set forth in paragraph "30" of the complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs, inclusive of this answer, as is fully set forth herein.

31. Denies the allegations set forth in paragraph "31" of the complaint.

32. Denies the allegations set forth in paragraph "32" of the complaint.

33. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "33" of the complaint.

34. Denies the allegations set forth in paragraph "34" of the complaint.

35. Denies the allegations set forth in paragraph "35" of the complaint.

36. Denies the allegations set forth in paragraph "36" of the complaint.

37. Denies the allegations set forth in paragraph "37" of the complaint, except admits that plaintiff purports to proceed as stated therein.

38. Denies the allegations set forth in paragraph "38" of the.

39. In response to the allegations set forth in paragraph “39” of the complaint, defendant repeats and realleges the responses set forth in the preceding paragraphs, inclusive of this answer, as is fully set forth herein.

40. Denies the allegations set forth in paragraph “40” of the complaint.

41. Denies the allegations set forth in paragraph “41” of the complaint, including all of its subparts.

42. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “42” of the complaint.

43. Denies the allegations set forth in paragraph “43” of the complaint.

44. Denies the allegations set forth in paragraph “44” of the complaint.

45. Denies the allegations set forth in paragraph “45” of the complaint.

46. Denies the allegations set forth in paragraph “46” of the complaint.

47. Denies the allegations set forth in paragraph “47” of the complaint.

48. Denies the allegations set forth in paragraph “48” of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

49. The complaint fails, in whole or in part, to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

50. Any injuries alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct or the culpable or negligent conduct of a third party and were not the proximate result of any act of the defendant.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

51. Defendant has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

52. Plaintiff may not recover punitive damages against the City of New York.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

53. There was probable cause for plaintiff's arrest, detention and prosecution.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

54. At all times relevant to the acts alleged in the complaint, the duties and functions of defendant City's officials entailed the reasonable exercise of proper and lawful discretion. Therefore, defendant City is entitled to governmental immunity from liability.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

55. Plaintiff may have failed to comply with General Municipal Law §50-i and, accordingly, any claims arising under the laws of the state of New York may be barred.

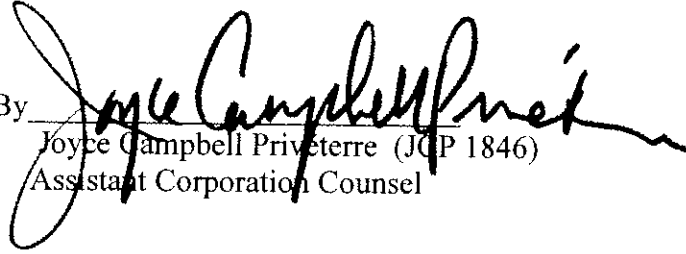
AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

56. Plaintiff may have failed to satisfy all conditions precedent to suit.

WHEREFORE, defendant City of New York requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
March 31, 2008

MICHAEL A. CARDOZO
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City of New York
Attorney for Defendant City of New York
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By 
Joyce Campbell Priveterre (JCP 1846)
Assistant Corporation Counsel

TO: Wale Mosaku, Esq. (by ECF and Mail)
Attorney for Plaintiff
25 Bond Street, 3rd Floor
Brooklyn, New York 11201

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Defendants.

ANSWER

MICHAEL A. CARDOZO

Corporation Counsel of the City of New York

Attorney for Defendant

100 Church Street

New York, N.Y. 10007

Of Counsel: Joyce Campbell Priv  terre

Tel: (212) 788-1277

NYCLIS No.

Due and timely service is hereby admitted.

New York, NY *March 31*, 2008

Joyce Campbell Priv  terre Esq.

Attorney for *City*